

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. 14,114 &

) 14,164

Appeal of )

INTRODUCTION

The petitioner appeals a decision of the Department to collect General Assistance reimbursement payments out of her SSI lump-sum back payment. The petitioner also appeals a decision by the Department to deny her General Assistance and emergency fuel benefits. The appeals in these two matters were consolidated as one hearing at the petitioner's request.

FINDINGS OF FACT

1. The petitioner is a single forty-three-year-old disabled woman who beginning at least in February of 1994, was a recipient of General Assistance through the Department of Social Welfare.
2. In February of 1994, the petitioner applied for Supplemental Security Income benefits. On February 1, 1994, the petitioner signed a form authorizing the Department of Social Welfare to receive her first SSI check and to deduct amounts of public assistance received from the Department during her period of SSI eligibility from that first check.  
  
A copy of that document is attached hereto as Exhibit No. One and is incorporated herein by reference. As the original authorization was to expire in one year, the petitioner signed a second authorization form on January 17, 1995. A copy of that document is attached hereto as Exhibit No. Two and is incorporated herein by reference.
3. The petitioner acknowledges signing these two forms and acknowledges that she understood what they required of her. However, the petitioner stated that she signed them not because she voluntarily wanted to give the reimbursements to the Department but because she had been told that her failure to sign the reimbursement forms could have resulted in a denial of General Assistance benefits on which she relied for her survival.
4. The petitioner was paid General Assistance benefits from February 1, 1994, through October 10, 1995, amounting to \$4,451.44.
5. In September of 1995, the petitioner was determined to be eligible for SSI benefits retroactive to February 1, 1994. On October 10, 1995, the Department received a retroactive SSI lump sum check

from the Social Security Administration for \$8,551.58 representing payments due to the petitioner since February of 1994.

6. The Department deducted \$4,451.44 from the lump sum and on October 12, 1995, mailed a check for the balance of \$4,100.14 to the petitioner.

7. The petitioner appealed the recovery of the General Assistance payment claiming that she was coerced into giving the Department money which was essential to her survival. She needed to buy a new car to help in her part-time employment as a security guard and had other back expenses she had hoped to pay with the \$8,000. She did actually buy two cars (a four wheel drive truck and a car) but is not working now due to an October 1995 automobile accident which caused her to have additional unexpected expenses, including expensive therapies. Although the petitioner receives Medicaid and Medicare, she inexplicably does not charge her medical expenses to those programs. In addition, it appears from the evidence that the petitioner bought the two vehicles instead of paying her rent and is considerably behind in her payments although she has not received an eviction notice from her landlord and did not ask for assistance with paying her back rent. She also has given some of her money to her son who has recently been released from prison.

8. The petitioner now receives \$543 per month in SSI benefits due to a cost of living increase. On January 25, 1996, the petitioner applied for emergency fuel assistance to help her pay an electric bill of \$52.39 which was overdue and for which she had received a shut-off notice for that same day. She had no money to pay the bill that day but the electric company agreed to extend the shut-off deadline until February 3, 1996, when the petitioner would receive her next SSI payment.

9. The petitioner's emergency fuel assistance request was denied by the Department on that same day, January 25, 1996, based upon the petitioner's lack of emergency need. Her request was also considered under General Assistance standards and was also denied because the petitioner's income was in excess of GA standards and she showed no catastrophic situation which would warrant such assistance.

### ORDER

The decisions of the Department with regard to the GA recovery from the SSI check and the GA and emergency fuel denial is affirmed.

### REASONS

#### I. GA Recovery from the SSI Retroactive Check

Among the eligibility criteria found in the Department's General Assistance regulations is the following:

General Assistance shall be furnished with the understanding that when a recipient subsequently acquires benefits or resources in any amount from an inheritance; cash prize; sale of property; retroactive lump sum Social Security; Veterans; or Railroad Retirement benefits; or court awards or settlements; he shall be required to make reimbursement for the amount furnished during the previous two years.

The GA applicant or member of the GA household who is also an SSI applicant must sign a Recovery of

General Assistance Agreement (DSW-230B) which authorizes SSA to send the initial check to this department so that the amount of General Assistance received can be deducted. The deduction will be made regardless of the amount of the initial SSI check. Any remainder due the SSI recipient shall be forwarded to him or her within 10 days. The deduction shall be made for General Assistance issued during the period from the first day of eligibility for SSI to the date the initial SSI check is received by the department.

When the SSI grant does not include all members of the household, the deduction shall be for a prorated portion of GA granted, to reflect only those included in the SSI grant.

W.A.M. 2600 D.

The above regulation requires an applicant for GA to sign the recovery of agreement authorization as a condition of obtaining benefits. The petitioner in this case voluntarily signed the authorization, not because she wanted to reimburse the Department for the GA she received, but because she wanted to get the General Assistance. No one forced her to sign this agreement, it was a choice she made. She could have chosen not to take the General Assistance and keep her retroactive SSI, although that choice would certainly have been a difficult one to make.

The petitioner has made no argument that being forced to make such a choice by the regulations is unfair or illegal. It goes without saying that anyone in her financial situation could have used the entire retroactive payment. However, the retroactive SSI payments made to her were payments she would have used to meet her expenses for all those months since February of 1994, had she received them in a timely manner. Because she did not receive them in time to use them for those purposes, the Department filled in by paying her living expenses from state funds during that same period. There is nothing unjust about the state recovering its expenses in October of 1995, from federal funds paid to the petitioner which were intended to cover living expenses for the same period of time.

As there were valid authorizations in effect for the time periods at issue, as the amount recovered was the amount paid out from the period of the first day of SSI eligibility to the date of the initial SSI check, and as the recovery is for a period within the two year statute of limitations, the Department acted within its regulation in deducting the GA payments from the petitioner's initial SSI check.

## II. Emergency Fuel and GA Denials

The petitioner's eligibility for emergency fuel assistance with her overdue electric bill is governed by the following regulation:

It is not the intent of these regulations to define a program of entitlement; i.e., a household whose income and resources are within the specified limits and who has a fuel need does not become entitled to a grant, and indeed may be denied. It is the intent of this regulation to provide a framework within which department staff, based on their judgment, may grant assistance to households who face a heating crisis.

In making this judgment staff will consider the individual situation; income, resources, prior applications, and what led to the crisis. Staff will also consider what potential income and resources are available and the extent to which the household can commit all or a portion of such potential toward meeting or partially meeting their current heating need crisis. This potential shall include all members of the household and not simply those bearing direct responsibility for the purchase of fuel.

Within this framework, staff will determine eligibility on the basis of conserving program funds and utilizing client resources to the maximum extent reasonably possible. Staff will make every effort to assist those who are denied eligibility to find alternative solutions to their problems.

W.A.M. 2950

The General Assistance program similarly will assist an applicant who has a regular monthly income in excess of ANFC standards, as the petitioner clearly does, <sup>(1)</sup> only if there is a "catastrophic situation":

Any applicant who has exhausted all available income and resources and who has an emergency need caused by one of the following catastrophic situations may have that need which is indeed caused by the catastrophe met within General Assistance standards disregarding other eligibility criteria...

- a. Death of a spouse or minor dependent child; or
- b. A court ordered or constructive eviction...
- c. A natural disaster such as flood, fire or hurricane; or
- d. An emergency medical need. Actions which may be evaluated as emergency in nature include, but are not limited to, the following:

. . .

- 4. Protection of public health; or
- 5. Amelioration of illness . . .

W.A.M. 2602

The petitioner's situation does not meet the criteria under either of these programs since she has failed to show that she has any emergency, crisis or catastrophic situation. The petitioner had a shut-off notice which could have led to her having no electricity on January 25, 1996. However, that did not happen because the utility company agreed to extend the deadline to the date when she was to receive her next SSI payment. At the time of her application, the petitioner was not in immediate danger of losing her electricity. In addition, with her next disability check, she will have the means and opportunity to avert the crisis by making a timely payment then. It cannot be concluded that she presently has an emergency utility need. The Department's decision must be upheld as it is in accord with its regulations. 3 V.S.A. § 3091(d).

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- 1. The maximum amount payable to a one person ANFC household unit is about \$415 per month. WAM 2245. See also W.A.M. 2600 C (1).